IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 938 (S/S) OF 2003

Davender Singh Nayal & Others …… Petitioners

Vs.

Union of India & Others ……Respondents

Sri Syed Nadim, Advocate for petitioners.
Sri V.B.S. Negi & Sri Ashok Agarwal Advocate for respondents.

Hon'ble P.C. Pant –J.

1. By means of this writ petition, moved under Article 226 of Constitution of India, petitioners have sought mandamus commanding the respondents to pay arrears of Ration allowance to the petitioner with effect from 30.09.1991 to 29.01.2001.

2. Brief facts, as alleged in the petition, are that petitioner are working in the office of Director, S.S.B., Frontier Academy, Gwaldam, District- Chamoli and are members of non executive staff of Academy. The Government of India granted ration allowance to the executive staff of S.S.B. posted I category 'B' & 'C' stations vide Cabinet Secretary letter No. 27011/4/86/ Hill dated 18.12.1987. The Froniter Academy, Gwaldam was declared as category 'B' station on 30.9.1991 vide order No.9/SSB/2/86(1)-V dated 30.9.1991. Earlier Central Administrative Tribunal Bench at Guwahati allowed the ration allowance to the petitioners of O.A.353/99 for their posting at Itanagar a Category 'B' station. Some similarly situated member of the staff filed the writ petition No. 881/99 before the Jammu & Kashmir High Court who were allowed relief of arrears

of ration allowance for non executive staff. Government of India vide order dated 08.02.2001 granted ration allowance to non executive staff with effect from February, 2001. But as to arrears there is no such order. As such it discriminates between the executive staff and non executive cadre and also between the employees who got relief through court against present petitioners hence the writ petition.

3. The Counter affidavit was filed on behalf of the respondents in which the objection has been raised that the petitioners could have sought relief claimed before Central Administrative Tribunal. It is further stated in the Counter affidavit that all the petitioners are not posted in the Academy of Gwaldam as some of them are not attached with the officer of respondent No. 2 However, the factum as to the grant of ration allowance to executive staff whit effect from 30.9.1991 at Gwaldam, is admitted to the respondent. It is further stated in the Counter affidavit that since non executive staff was allowed ration allowance vide order No.30/SSB/A2/97/(17) dated 08.02.2001 with effect from datd 01.02.2001 as such they are not entitled the allowance for the period prior it. The respondents have alleged that executive staff are required to work in the tough filed in different conditions even on the non working days where as non executive category of the petitioners have set working environment for attending the officer but the respondents in their counter affidavit have not denied that the CAT Bench,

Guwahati granted similar relief or the writ petition being allowance by the Jammu & Kashmir High Court in respect of other employees.

4. I heard leaned counsel for the parties and perused the affidavits & annexure annexed therewith.

5. The short question for consideration before this court is whether deprivation of ratio allowance to the petitioners for the period 30.09.1991 to 30.01.2001 is illegal being violative of Article 14 of Constitution of India.

6. Admittedly, the executive staff of S.S.B. was allowed ration allowance with effect from 30.9.1991 at Gwaldam (when it was declared 'B' Category station) as per cabinet secretary letter No.A.27011/4/86-EA-II dated 18.12.1887, where as non executive staff was allowed that same after about nine and half years i.e. since 30.01.2001. Some of the non executive employees posted at Itanagar who knocked the doors of Central Administrative Tribunal, Guwahati by filing O.A. No. 103/1999 were allowed the ration allowance from the date of their posting there (copy of said order is annexure 4 to the writ petition). This fact is not denied by the respondents. Similarly some employees in the same manner got the relief from CAT by filing Original Application No. 353/1999, copy of which is annexure 5 in writ petition. Even in the letter No. 35/SSB/A2/2001 (14) PFIII dated 19.12.2002 issued by the Government of India by which ration allowance granted for non executive staff, reliance has been placed not only in the aforesaid order of the Central Administrative Tribunal

but also order dated 06.11.2001 passed Jammu & Kashmir High Court in writ petition No. 881/1999 Brij Mohan Vs. Union of India. In view of these orders and letters it can very well be said that the petitioners are discriminated by non payment of arrears of ration allowance fro 30.09.1991 to 30.01.2001 i.e. from the date Gwaldam was declared as Category 'B' station to the date where-after the allowance given. It is not disputed that Gwaldam is Category 'B' station with effect the 30.09.1991.

7. In these circumstances, petitioners who were posted Gwaldam can not be deprived of ration allowance at Gwaldam with effect from 30.09.1991 or the date of posting whichever later till 30.01.1991. Else it would be violative of Article 14 of the Constitution of India.

8. Accordingly the writ petition is allowed for the relief claimed with the observation as above. No order as to costs.

Dated: August 28, 2004 **(P.C. Pant-J)**

J.K.Jain